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February 5, 1996

**VIA HAND DELIVERY**

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Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W., Room 222  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

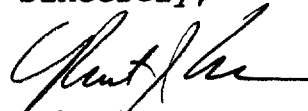
Re: In the Matter of Definition of Markets for Purposes  
of the Cable Television Mandatory Television Broadcast  
Signal Carriage Rules: Docket No. CS Docket 95-178

Dear Mr. Caton:

Transmitted herewith by its attorneys on behalf of the Cable Telecommunications Association ("CATA"), is an original and four copies of Comments in the above-referenced proceeding.

If any additional information is desired in connection with this matter, please contact the undersigned counsel.

Sincerely,

  
Robert J. Ungar

Enclosure

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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of

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CS Docket No. 95-178

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COMMENTS OF THE CABLE TELEVISION COMMUNICATIONS ASSOCIATION

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CS Docket No. 95-178

**COMMENTS OF THE CABLE TELEVISION COMMUNICATIONS ASSOCIATION**

1. The Cable Telecommunications Association ("CATA"), hereby files comments in the Notice of Proposed Rulemaking in the above-captioned proceeding. CATA is a trade association representing owners and operators of cable television systems serving approximately 80 percent of the nation's more than 60 million cable television subscribers. CATA files these comments on behalf of its members who will be directly affected by the Commission's action.

2. Pursuant to the Cable Television Act of 1992 and Section 76.64(f)(2) of the Commission's Rules, by October 1, 1996, local television broadcast stations face the second of what are intended to be triennial elections between must-carry and retransmission consent status. For this purpose a "local" television station is one whose Area of Dominant Influence ("ADI"), as defined by the Arbitron Corporation, encompasses the community served by the cable system. The Commission had intended to regularly update the list of ADIs pursuant to a schedule set forth in Section 76.55 (e) of the Rules.

3. Now, because Arbitron has stopped designating ADIs, the Commission cannot update the list and is faced with amending its rules to specify some other mechanism for defining which television stations are "local" for purposes of making future must-carry - retransmission consent elections. The Commission has proposed three alternatives:

- a. to substitute Nielsen's "Designated Market Areas" ("DMAs") for ADIs;
- b. to continue to use the 1991-1992 ADI list subject to review and refinement through existing Commission processes; or
- c. to continue to use the 1991-1992 ADI list for the 1996 election and to switch to DMAs thereafter.

4. The Commission has tentatively concluded that the second option, to continue to use the 1991-1992 ADI list, subject to refinement, is the preferable option. CATA strongly agrees. We agree not because a station's ADI is the fairest method of defining "local" -- it is not -- but because after three years of change and turmoil, regulatory stability is vital.

5. Between 1992 and the present, cable systems and their subscribers have been subject to an often bewildering and changing panoply of government regulation. Over this period, a subscriber's mail from its local system announced new compatibility options, new options for disposition of wiring, changes in stations carried, changes in channel designations, changes in consumer practices, changes in rates, adjustments to changes in rates, rebates of rates, various permitted increases in rates, the creation of NPTs, MPTs,...etc. It is an understatement to suggest that in the wake of the Cable Act of 1992 and the Commission's attendant regulations, there has been a considerable degree of subscriber confusion. This is not pleasant for subscribers and it is surely bad for business.

6. Whatever the inequities of using ADIs (or for that matter, DMAs) to define whether a station is "local," both the cable and broadcast industries have learned the process. Channel line-ups are stable. Subscribers have learned what station is on what channel. To switch now (or in three years) to another definition can cause nothing but confusion all over again. ADIs and DMAs are similar, but not identical. If the Commission were to switch to DMAs, all over the country there would be slight dislocations in channel line-ups, and channel numbering. Subscribers would be aggravated (and rightly so). Their irritation would, in the first instance, be directed at their cable operators, and ultimately at what would be perceived as the heavy hand of needless regulation from Washington. Subscribers will not be interested in what an ADI is or that Arbitron has upset the even tenor of Commission regulation by discontinuing its use.

## **CONCLUSION**

7. The Commission is right in tentatively determining to continue using the 1991-1992 ADI list. Retaining this list will preserve a considerable degree of certainty. Even as these comments are filed, the President is poised to sign into law the Telecommunications Act of 1996 which will require further changes in cable regulation. CATA urges the Commission

to adopt its proposal and not add further to the regulatory churn.

Respectfully submitted,

THE CABLE TELECOMMUNICATIONS  
ASSOCIATION

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